

REMARKS

Claims 31-104, 106-148 and 150-152 are pending. The claims were rejected in the Action of January 30, 2001 for alleged obviousness and alleged obviousness-type double patenting. Somewhat confusingly, the claims were also indicated to be allowable. Applicants presume this to be a simple oversight and take the claims to be rejected as indicated. Applicants traverse the rejection (but not the allowance, if intended!), as noted below.

A TERMINAL DISCLAIMER WILL BE PROVIDED

To obviate the obviousness-type double patenting rejection over claims 1-36 of USP 5,837,485, Applicants will submit a terminal disclaimer, provided the other rejections of record are withdrawn and provided a terminal disclaimer is appropriate at that time. The Examiner is respectfully requested to contact the undersigned to arrange for Facsimile transmission of an appropriate disclaimer.

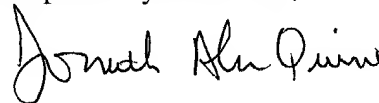
THE CLAIMS ARE PATENTABLE OVER STEMMER

The Action indicates that Stemmer (Nature 1994) teaches cassette based mutagenesis, although not using the same terminology. Applicants respectfully disagree.

In particular, the claimed method, e.g., of claim 31 relates to a method whereby recombination sites are added to nucleic acids and then recombination is performed at the added recombination sites, followed by selection of the recombinant nucleic acids for activity. Applicants respectfully submit that the Action does not specify how this claimed procedure is actually taught by Stemmer. Further, Applicants believe that the claimed procedure is patentably distinct over the pioneering teachings of Stemmer. Accordingly, the rejection should be withdrawn.

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Respectfully submitted,



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